

MINUTES
KENTUCKY BOARD OF PHARMACY
W.T. Young Library
University of Kentucky
Lexington, Kentucky
March 10, 2004

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the W.T. Young Library, University of Kentucky, in Lexington, Kentucky. President Armstrong called the meeting to order at 9:12 a.m.

Members present: Tim Armstrong, Becky Cooper, Mark S. Edwards, Georgina Kindall-Jones, Greg Naseman, and Patricia Thornbury. Staff present: Jeffrey L. Osman, Interim Executive Director; Katie Busroe and Phil Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel; and Shannon Settles, Executive Secretary. Guests: Brian Fingerson, Pharmacist Recovery Network; Paula York, Drug Control; Ralph E. Bouvette, APSC; Mike Mayes, KPhA; Randy Gaither, Kroger Pharmacy; Chad Downing and Greg Baker, Walgreens; Deanna Finnell, Purdue Pharma; Pete Cohron, CVS; Dina Fraulini; Tracy Greenwell, University of Kentucky College of Pharmacy Intern with Brian Fingerson; and the third year class of the University of Kentucky College of Pharmacy were also in attendance. Melody Curtis, Court Reporter, recorded the meeting.

APPEARENCES: **Michael M. Fraulini.** Mr. Fraulini appeared before the Board to petition for reciprocity. Mr. Fraulini gave a brief overview of the events which lead to disciplinary action against his Ohio pharmacist's license. After a brief discussion, Ms. Thornbury moved to allow the reciprocity process to proceed and once the process has been successfully completed, to grant a Kentucky pharmacist's license with the following terms and conditions: Probation for five (5) years; employment of no more than 40 hours per week or no more than 80 hours in a two-week period; provide a copy of Agreed Order to all employers; enter into a HELP contract; submission of a signed release for medical records; AA or NA no less than three (3) times per week; monthly random urine screens to coordinate with Brian Fingerson, Kentucky Board of Pharmacy and Ohio Board of Pharmacy; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President's approval of all employers; obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; shall not dispense any drugs for himself or his family members; and has already attended CAPTASA. Once Mr. Fraulini successfully completes the reciprocity process, Agreed Order to be drafted and forwarded to Mr. Fraulini for his signature and upon its return to be signed by President Armstrong. Ms. Kindall-Jones seconded and the motion passed unanimously.

MINUTES: On motion by Mr. Edwards, seconded by Mr. Naseman and passed

unanimously, the Minutes of January 7, 2004 were adopted. On motion by Mr. Naseman, seconded by Ms. Kindall-Jones and passed unanimously, the Minutes of February 5, 2004 were amended to state that the Minutes of January 16, 17, and 18, 2004 were approved.

INTERAGENCY: **Drug Control.** Paula York gave a brief overview of the KASPER enhancements.

BOARD REPORTS: **President.** Mr. Armstrong introduced the Board members to the University of Kentucky third year pharmacy students. He also talked about the role of the Board of Pharmacy and the long standing relationship with the University of Kentucky College of Pharmacy. Mr. Armstrong thanked Mr. Michael Moné, past Executive Director, for his service and wished him well in his pursuits. Mr. Armstrong gave a brief overview of the Board examinations. Dr. Jeffrey L. Osman, Interim Executive Director, gave the results from the January 17, 2004 Board examinations.

Board Members. Ms. Thornbury advised the University of Kentucky College of Pharmacy third year students that it was imperative for the students to know the law.

Mr. Naseman recognized Mike Mayes and his hard work in helping to organize the First Annual Meeting of Kentucky Pharmacists on May 20-23, 2004 in Louisville.

Ms. Kindall-Jones stated that it was a pleasure to be at the University of Kentucky and thanked the students for “helping us get real.”

Ms. Cooper advised the students to take advantage of their internship experiences.

Mr. Edwards thanked Ms. Cooper for her valuable insight and “keeping the Board honest.” Mr. Edwards will be attending the APhA meeting in Seattle on March 26-30, 2004. Mr. Edwards’ advise to the students was to do everything in their power to protect their license once they receive it and to pay attention to medication errors.

Board Interim Executive Director. Dr. Osman informed the students that the two most prevalent problems to come before the Board are medication errors and failure to complete continuing education. Dr. Osman informed the Board that Brenda Edwards, Administrative Specialist III, has transferred positions. Mr. Edwards moved to update the Board office’s computer hardware and software as well as the copier, spending not to exceed \$50,000. If more funding is needed the issue will be brought back before the Board. Ms. Kindall-Jones seconded and the motion passed unanimously.

Board Staff. Mr. Fingerson gave a brief overview of his involvement with the Pharmacists Recovery Network and the Impaired Pharmacists Committee. Currently, he is working with approximately 33 pharmacists and interns and approximately 12 more are in contact with Mr. Fingerson on a regular basis. Between 1 in 8 to 10 pharmacists have a substance abuse problem.

CURRENT/PENDING CASES: Mr. Edwards moved for acceptance and entry of the proposed Agreed Orders as written. Ms. Kindall-Jones seconded and the motion passed unanimously.

Case No. 03-0030; Case No. 03-0064; Case No. 03-0073; Case No. 03-0080; Case No. 03-0095; Case No. 03-0096; Case No. 03-0100D; Case No. 03-0104A; Case No. 03-0105A; Case No. 03-0105B; Case No. 03-0108A; Case No. 03-0108B; Case No. 03-0109; Case No. 03-0110; Case No. 03-0111; Case No. 03-0113; Case No. 03-0115; Case No. 03-0116; Case No. 03-0122A; Case No. 03-0122B; Case No. 03-0125B; Case No. 03-0127; Case No. 03-0130B; Case No. 03-0133A; Case No. 03-0029; Case No. 03-03-0047B; Case No. 03-0079; Case No. 03-0100D; Case No. 03-0107; Case No. 03-0130A; Case No. 03-0133B; Case No. 03-0136; Case No. 03-0139A; Case No. 03-0140; Case No. 03-0144.

Case Review Committee

Mr. Edwards moved for acceptance of the Committee recommendation for the following case reports.

Case No. 03-0040A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A complaint from the Medicaid/Welfare Fraud and Abuse Hotline stated that a pharmacy dispensed #60 Xenical 120 mg capsules when the prescription was written for #90 capsules. The prescription was written "Take 1 capsule with lunch and 1 capsule with supper." Medicaid will only pay for a one month supply of Xenical, therefore, a one month supply was prior authorized and dispensed. Alleged violation of law: KRS 217.065 (1). CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0040B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A complaint from the Medicaid/Welfare Fraud and Abuse Hotline stated that a pharmacy dispensed #60 Xenical 120 mg capsules when the prescription was written for #90 capsules. The prescription was written "Take 1 capsule with lunch and 1 capsule with supper." Medicaid will only pay for a one month supply of Xenical, therefore, a one month supply was prior authorized and dispensed. Alleged violation of law: KRS 315.121 (1)(a) and (2)(d). CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0082. Pharmacist allegedly violated the Health Insurance Portability and Accountability Act and the Kentucky Pharmacy Practice Act, patient confidentiality. When a patient presented two prescriptions, pharmacist stated the names of the prescriptions, Xanax and trazadone as well as the comment "Xanax was a narcotic," in a rude and loud manner with other patients overhearing the conversation. Alleged violation of law: 201 KAR 2:210 Section 3(1). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0083 Revisit. Pharmacy permit holder allegedly failed to provide proper security and control of controlled substances. The Board office received a written complaint from a concerned citizen that a pharmacy employee was selling OxyContin. Two audits did not reveal

any large variation in the audited items. On the first audit one strength of OxyContin was short 11 tablets and on the second audit, the same strength was short 4 tablets. Alleged violation of law: 201 KAR 2:100 Section 1. CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0087A Revisit. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A prescription for Actiq 600 mcg, quantity 30, was presented to the pharmacy. At this time, Actiq came pre-packaged from the manufacturer as quantity 24. The pharmacy dispensed quantity 24. It is disputable whether or not the patient's caregiver was informed of this decision. Furthermore, it was alleged that counseling was not offered and the refusal of counseling was not documented. Alleged violations of law: KRS 217.065 and 201 KAR 2:210 Section 2 and Section 5. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0087C Revisit. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A prescription for Actiq 600 mcg, quantity 30, was presented to the pharmacy. At this time, Actiq came pre-packaged from the manufacturer as quantity 24. The pharmacy dispensed quantity 24. It is disputable whether or not the patient's caregiver was informed of this decision. It is also disputable whether or not the pharmacist informed the physician that the entire quantity of a Scheduled II drug that was prescribed was not dispensed. Furthermore, it was alleged that counseling was not offered and the refusal of counseling was not documented. Alleged violations of law: KRS 315.121 (1)(a) and (2)(d), CFR 1306.13(a), and 201 KAR 2:210 Section 2 and Section 5. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0117 Revisit. Pharmacist allegedly failed to complete 1.5 units of continuing education in 2002. Pharmacist produced continuing education. Alleged violation of law: KRS 315.065 and 201 KAR 2:015. CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0123 Revisit. Pharmacist-in-charge allegedly failed to maintain proper records for legend drugs, including controlled substances, dispensed controlled substances without authorization from a licensed practitioner, and failed to maintain proper security of the pharmacy. Pharmacist committed suicide on September 14, 2003. CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0135A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A prescription for a six year old was written for Risperdal 0.25 mg, take 1 tablet 3 times daily. The six year old received Risperdal 0.5 mg, but the vial was labeled as 0.25 mg. The patient became semi-comatose after ingesting the drug and was taken to the hospital. Alleged violation of law: KRS 217.065(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0135B. Pharmacist allegedly engaged in unprofessional conduct by committing a

medication error. A prescription for a six year old was written for Risperdal 0.25 mg, take 1 tablet 3 times daily. The six year old received Risperdal 0.5 mg, but the vial was labeled as 0.25 mg. The patient became semi-comatose after ingesting the drug and was taken to the hospital. Alleged violation of law: KRS 315.121(1)(a) and (2)(d). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0145A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A prescription was written for Dilantin, 300 mg at bedtime. The prescription was dispensed as Dilantin, 300 mg three times a day. The patient became weak, unresponsive, lethargic, and even incoherent at times. The maximum daily dose of Dilantin is 600 mg. Alleged violation of law: KRS 217.065(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0145B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A prescription was written for Dilantin, 300 mg at bedtime. The prescription was dispensed as Dilantin, 300 mg three times a day. The patient became weak, unresponsive, lethargic, and even incoherent at times. The maximum daily dose of Dilantin is 600 mg. Alleged violation of law: KRS 315.121 (1)(a) and (2)(d). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0146A. Pharmacy permit holder allegedly dispensed Nardil 15 mg after it had been recalled. Two lot numbers of Nardil 15 mg were recalled in October 2002 because they did not meet specifications on stability. The patient alleges that she received a subpotent prescription of Nardil 15 mg on August 31, 2003. The recall was issued to the distribution centers on September 16, 2002. It was not issued at the store level. The pharmacist-in-charge kept track of the lot numbers dispensed to the patient and the recalled lot numbers were not dispensed. Alleged violation of law: KRS 217.055 (3). CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0146B. Pharmacist-in-charge allegedly dispensed Nardil 15 mg after it had been recalled. Two lot numbers of Nardil 15 mg were recalled in October 2002 because they did not meet specifications on stability. The patient alleges that she received a subpotent prescription of Nardil 15 mg on August 31, 2003. The recall was issued to the distribution centers on September 16, 2002. It was not issued at the store level. The pharmacist-in-charge kept track of the lot numbers dispensed to the patient and the recalled lot numbers were not dispensed. Alleged violation of law: KRS 217.055 (3). CRC recommendation: Case is dismissed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0147A. Pharmacy permit holder allegedly failed to properly store legend drugs. On two different occasions, prescriptions for Lantus insulin and Novolog penfills were not

refrigerated after being labeled and held for patient pick up. The blood glucose levels of the eight year old were uncontrolled when he used the unrefrigerated insulins. Alleged violation of law: KRS 217.055. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0147B. Pharmacist allegedly failed to properly store legend drugs. On two different occasions, prescriptions for Lantus insulin and Novolog penfills were not refrigerated after being labeled and held for patient pick up. The blood glucose levels of the eight year old were uncontrolled when he used the unrefrigerated insulins. Alleged violation of law: KRS 217.055. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0148A. Pharmacy permit holder allegedly sold a misbranded prescription as the result of selling prescription drugs without authorization from a licensed practitioner. The pharmacy was selling non patient specific compounded legend drugs to an Ohio hospital as well as compounding preparations that were commercially available (at the time these drugs were compounded they were unavailable from the manufacturer). The Ohio Board of Pharmacy has scheduled a hearing in April. Alleged violations of law: KRS 217.055(1), KRS 315.121 (2)(f), and Section 505 of the Federal Food, Drug, and Cosmetic Act. CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0148B. Pharmacist-in-charge engaged in unprofessional conduct by allegedly selling prescription drugs without authorization from a licensed practitioner. The pharmacist was selling non patient specific compounded legend drugs to an Ohio hospital as well as compounding preparations that were commercially available (at the time these drugs were compounded they were unavailable from the manufacturer). The Ohio Board of Pharmacy has scheduled a hearing in April. Alleged violations of law: KRS 315.121 (2)(f) and Section 505 of the Federal Food, Drug, and Cosmetic Act. CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0149A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error and failed to maintain documentation of refusals of counseling. A prescription was presented at the pharmacy for a five year old for an antibiotic. Two prescriptions were placed in the bag, the antibiotic for the patient and generic Cardec DM for a different patient. The mother gave the child one dose of the wrong medication. She was unable to get in touch with the pharmacist about the medication error. The mother was not offered counseling nor was there a refusal of counseling documented. Alleged violations of law: KRS 217.065(1) and 201 KAR 2:210 Section 2 and Section 5. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0149B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error and failed to offer counseling on a new prescription. A prescription was

presented at the pharmacy for a five year old for an antibiotic. Two prescriptions were placed in the bag, the antibiotic for the patient and generic Cardec DM for a different patient. The mother gave the child one dose of the wrong medication. She was unable to get in touch with the pharmacist about the medication error. The mother was not offered counseling nor was there a refusal of counseling documented. Alleged violations of law: KRS 315.121 (1)(a) and (2)(d) and 201 KAR 2:210 Section 2 and Section 5. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0150. Pharmacy permit holder allegedly failed to timely notify the Board office of a pharmacist-in-charge change. The Board office received a written notification from the corporation naming a pharmacist as the pharmacist-in-charge on August 6, 2003. On November 25, 2003, the office received a written statement from the pharmacist that she was unaware she had been named pharmacist-in-charge at this pharmacy. She left the employment of the corporation on August 15, 2003. As of December 16, 2003, she is still listed as the pharmacist-in-charge at this pharmacy. Alleged violation of law: KRS 315.020 (1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0151. Pharmacist allegedly failed to complete 1.5 continuing education units for 2002. During a routine inspection, it was discovered that pharmacist had only completed 1.1 units of continuing education in 2002. Alleged violation of law: KRS 315.065 and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0152. Pharmacy permit holder allegedly closed without proper notification to the Board or the public and designated a pharmacist to be pharmacist-in-charge without the pharmacist's permission. A pharmacist made several complaints to a Board inspector about a pharmacy being closed when, according to posted hours, it was to be open. Several patients went to another pharmacy to have their prescriptions transferred, but were unable to do so because the pharmacy was closed. It was discovered that the pharmacy was closed at least 5 days in June and at least 6 days in July when the posted hours had it scheduled opened. Furthermore, the pharmacy closed early on several occasions. The pharmacist-in-charge does not currently work at this permit location, nor was her permission obtained by the corporation to be named pharmacist-in-charge. Alleged violations of law: KRS 315.121(1)(e) and (2)(d), 201 KAR 2:205, and KRS 315.020(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0153. Pharmacy permit holder allegedly closed without proper notification to the Board or the public. Pharmacists made several complaints to a Board inspector about a pharmacy being closed when, according to posted hours, it was to be open. Several patients went to another pharmacy to have their prescriptions transferred, but were unable to do so because the pharmacy was closed. It was discovered that the pharmacy was closed 7 to 10 days since the second week of June 2003. Alleged violation of law: KRS 315.121(1)(e) and (2)(d). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0154. Pharmacy permit holder allegedly closed without proper notification to the Board or the public. During a routine inspection the Board inspector discovered that the pharmacy was closed for two consecutive days because one pharmacist was on vacation and the pharmacist-in-charge was out of town. The pharmacist-in-charge had notified the company months ahead of time that he needed off those two days. The corporation failed to provide a pharmacist. Alleged violation of law: KRS 315.121(1)(e) and (2)(d). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0155. Special medical gas permit holder allegedly moved without notifying the Board office in a timely manner. The office received a change of address application on November 26, 2003. On December 1, 2003, the inspector did an inspection of the new address. The permit holder had already moved the entire operation, including oxygen tanks, to the new location. Alleged violations of law: KRS 315.035(5) and 201 KAR 2:225 Section 2 (3). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0156A. Pharmacy corporation allegedly failed to provide proper security of controlled substances at four locations. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violation of law: 201 KAR 2:100. CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0156B. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0156C. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0156D. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled

substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0156E. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0157A. Pharmacy permit holder allegedly failed to provide proper security of controlled substances. A pharmacy technician diverted two Scheduled II prescriptions, OxyContin 40 mg and OxyIR 5 mg. A 19 year old man died from an overdose of these drugs, given to him by the pharmacy technician and/or her boyfriend. The technician was terminated. Alleged violation of law: 201 KAR 2:100. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0157B. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A pharmacy technician diverted two Scheduled II prescriptions, OxyContin 40 mg and OxyIR 5 mg. A 19 year old man died from an overdose of these drugs, given to him by the pharmacy technician and/or her boyfriend. The technician was terminated. Alleged violation of law: 201 KAR 2:100. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0157C. Pharmacist allegedly failed to provide proper security of controlled substances. A pharmacy technician diverted two Scheduled II prescriptions, OxyContin 40 mg and OxyIR 5 mg. A 19 year old man died from an overdose of these drugs, given to him by the pharmacy technician and/or her boyfriend. The technician was terminated. Alleged violation of law: 201 KAR 2:100. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0158A. Pharmacy permit holder allegedly relocated and/or closed without proper notification to the Board, failed to have in place a pharmacist-in-charge from November 04, 2003 to December 19, 2003, and used questionable signage without a pharmacy permit. Two pharmacy permits were issued for two separate operations at the same address, with the same owner. One of the operations was sold. The other operation moved without notifying the Board office. It was discovered that the operation that moved was only providing an insurance card discount program and did not need a pharmacy permit to do so. However, signage indicated that

the operation was a pharmacy. The pharmacy permit with “Return to Board” written on it was returned to the Board office, but no letter of closure was received. Alleged violations of law: 201 KAR 2:106 and/or KRS 315.035 (5), KRS 315.020(1), and KRS 315.030 (1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0158B. Pharmacist owner allegedly relocated and/or closed without proper notification to the Board, failed to have in place a pharmacist-in-charge from November 04, 2003 to December 19, 2003, and used questionable signage without a pharmacy permit. Two pharmacy permits were issued for two separate operations at the same address, with the same owner. One of the operations was sold. The other operation moved without notifying the Board office. It was discovered that the operation that moved was only providing an insurance card discount program and did not need a pharmacy permit to do so. However, signage indicated that the operation was a pharmacy. The pharmacy permit with “Return to Board” written on it was returned to the Board office, but no letter of closure was received. Alleged violations of law: 201 KAR 2:106 and/or KRS 315.035 (5), KRS 315.020(1), and KRS 315.030 (1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0159. Pharmacist allegedly failed to complete 1.5 continuing education units in 2002. On a routine inspection it was discovered that pharmacist complete 1.45 units of continuing education in 2002. Alleged violation of law: KRS 315.065 and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0160A. Special medical gas permit holder allegedly failed to have quarterly inspections done by a consultant pharmacist. One inspection was done May 22, 2003 and the next inspection was done November 18, 2003 (after an inspection by a Board inspector). Alleged violation of law: 201 KAR 2:225 Section 2 (1)(b). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 03-0160B. Consultant pharmacist for a special medical gas permit holder allegedly failed to do quarterly inspections. One inspection was done May 22, 2003 and the next inspection was done November 18, 2003 (after an inspection by a Board inspector). Alleged violation of law: 201 KAR 2:225 Section 2 (1)(b). CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0001. Pharmacy permit holder allegedly failed to have a pharmacist-in-charge of the pharmacy for approximately 2 months. Alleged violation of law: KRS 315.020(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0002. Pharmacist allegedly failed to complete 1.5 continuing education units for 2003. Pharmacist self reported on the pharmacist’s renewal application that 1.025 units of

continuing education were obtained in 2003. Alleged violation of law: KRS 315.065(2) and 201 KAR 2:015. CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0003. Pharmacist allegedly failed to complete 1.5 continuing education units for 2003. Pharmacist self reported on the pharmacist's renewal application that 1.4 units of continuing education were obtained in 2003. Alleged violation of law: KRS 315.065(2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0004. Pharmacist allegedly surrendered Ohio pharmacist's license. Pharmacist self reported on pharmacist's renewal application that his Ohio pharmacist's license had been suspended indefinitely due to an arrest on or about July 6, 2002 for driving under the influence of alcohol, possession of marijuana, and the possession and use of controlled substances. Ohio Board of Pharmacy took action on December 10, 2003. Alleged violation of law: KRS 315.121 1(d) and 2 (d). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0005. Pharmacist allegedly failed to complete 1.5 continuing education units for 2002. During a routine inspection it was discovered that pharmacist completed 1.08 units of continuing education in 2002. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0006. Pharmacy permit holder allegedly failed to timely notify the Board office of a change in pharmacist-in-charge. During a routine inspection, it was discovered that the pharmacist-in-charge on the pharmacy permit no longer worked for this corporation. As of February 23, 2004, no pharmacist-in-charge has been named. Alleged violation of law: KRS 315.020(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0007. Pharmacy permit holder allegedly failed to timely notify the Board office of a change of pharmacist-in-charge. During a routine inspection on December 23, 2003, it was discovered that the pharmacist-in-charge on the pharmacy permit had retired on October 31, 2003. As of February 23, 2004, no pharmacist-in-charge has been named. Alleged violation of law: KRS 315.020(1). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0008A. Pharmacy permit holder allegedly failed to keep documentation of lot numbers and expiration dates of medication in the Baker's cells. During a routine inspection it was discovered that documentation on at least 10 Baker's cells indicated that the drug in the cell had expired or there was no documentation as to expiration date. There were also several out of

date drugs in the refrigerator. Alleged violation of law: KRS 217.055. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0008B. Pharmacist-in-charge allegedly failed to keep documentation of lot numbers and expiration dates of medication in the Baker's cells. During a routine inspection it was discovered that documentation on at least 10 Baker's cells indicated that the drug in the cell had expired or there was no documentation as to expiration date. There were also several out of date drugs in the refrigerator. Alleged violations of law: KRS 217.055 and 201 KAR 2:205 Section 2 (3) (b). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0009A. Pharmacy permit holder allegedly failed to keep documentation of lot numbers and expiration dates of medications in the Baker's cells. During a routine inspection on December 22, 2003, it was discovered that the notebook with the documentation for the lot numbers and expiration dates for the drugs in the Baker's cells had not been updated since June 2003. Alleged violation of law: KRS 217.055. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0009B. Pharmacist-in-charge allegedly failed to keep documentation of lot numbers and expiration dates of medication in the Baker's cells. During a routine inspection on December 22, 2003, it was discovered that the notebook with the documentation for the lot numbers and expiration dates for the drugs in the Baker's cells had not been updated since June 2003. Alleged violations of law: KRS 217.055 and 201 KAR 2:205 Section 2 (3) (b). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0010A. Pharmacy permit holder allegedly moved without prior inspection of the new location. On October 1, 2003, the Board office received a change of address application. On October 1, 2003, a letter was sent to the pharmacy instructing the pharmacy to contact the Board inspector for an inspection and approval prior to moving. No contact was made. On December 18, 2003, the Board inspector did a routine inspection of the pharmacy. At this time it was discovered that the pharmacy had relocated approximately 2 months before. Alleged violation of law: KRS 315.035(5). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0010B. Pharmacist-in-charge allegedly moved a pharmacy permit without prior inspection of the new location. On October 1, 2003, the Board office received a change of address application. On October 1, 2003, a letter was sent to the pharmacy instructing the pharmacy to contact the Board inspector for an inspection and approval prior to moving. No contact was made. On December 18, 2003, the Board inspector did a routine inspection of the pharmacy. At this time it was discovered that the pharmacy had relocated approximately 2 months before. Alleged violation of law: 201 KAR 2:205. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed

unanimously.

Case No. 04-0010C. Wholesaler allegedly delivered legend drugs, including controlled substances, to a location which was not licensed by the Board. The pharmacy permit holder had moved without an inspection and approval prior to moving and the wholesaler delivered legend drugs to the new location. **Alleged violation of law: KRS 315.035(5).** CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0011A. Pharmacy permit holder was allegedly manufacturing drugs when the health of the animal is not threatened, manufacturing drugs in commercial size lots, compounding drugs where there is a manufactured alternative, compounding without a valid veterinarian relationship, and compounding with bulk drugs. The pharmacy was inspected by an FDA compliance officer. An FDA-483 warning letter was issued to the pharmacy regarding whether the entity's scope was that of a pharmacy or a manufacturer. Alleged violations of law: 21 CFR 530.13(a), 21 CFR 530.13(b)(5), 21 CFR 530.13(b)(2), 21 CFR 530.13(b)(1) & (b)(3), and 21 CFR 530.13(a). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0011B. Pharmacist-in-charge was allegedly manufacturing drugs when the health of the animal is not threatened, manufacturing drugs in commercial size lots, compounding drugs where there is a manufactured alternative, compounding without a valid veterinarian relationship, and compounding with bulk drugs. The pharmacy was inspected by an FDA compliance officer. An FDA-483 warning letter was issued to the pharmacy regarding whether the entity's scope was that of a pharmacy or a manufacturer. Alleged violations of law: 21 CFR 530.13(a), 21 CFR 530.13(b)(5), 21 CFR 530.13(b)(2), 21 CFR 530.13(b)(1) & (b)(3), and 21 CFR 530.13(a). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0012. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that she completed 0.4 units of continuing education in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0013. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that he did not complete the continuing education requirements in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0014. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that she completed 1.2 units

of continuing education in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0015. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that he did not complete the continuing education requirements in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0016. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that she completed 1.15 units of continuing education in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0017A. Special medical gas permit holder allegedly failed to timely notify the Board office of an ownership change. The permit holder changed ownership on November 18, 2003, but did not notify the Board office until February 2, 2004. Alleged violation of law: KRS 315.035(5) and 201 KAR 2:225 Section 2(3). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0017B. Pharmacist consultant for a special medical gas permit allegedly failed to timely notify the Board office of an ownership change. The permit holder changed ownership on November 18, 2003, but did not notify the Board office until February 2, 2004. Alleged violation of law: KRS 315.035(5) and 201 KAR 2:225 Section 2(3). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0018A. Special medical gas permit holder allegedly failed to timely notify the Board office of a closure. The permit holder closed this location and moved the inventory to another location on November 18, 2003 and did not notify the Board office until December 23, 2003. Alleged violation of law: 201 KAR 2:106 Section 2(c) and KRS 315.121 (1)(a)(h). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0018B. Consultant pharmacist for a special gas permit holder allegedly failed to timely notify the Board office of a closure. The permit holder closed this location and moved the inventory to another location on November 18, 2003 and did not notify the Board office until December 23, 2003. Alleged violation of law: 201 KAR 2:106 Section 2(c) and KRS 315.121 (1)(a)(h). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0021. Pharmacy permit holder allegedly failed to have in place a pharmacist-in-charge who worked at least 10 hours per week, failed to have a power-of-attorney and continued

to order Scheduled II drugs, and failed to have pharmacists review and sign daily computer prescription printouts. The pharmacist-in-charge has not worked at least 10 hours a week since about December 15, 2003 to the present. Alleged violations of law: 201 KAR 2:205, CFR 1305.07, and 201 KAR 2:170(8). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0022A. Special limited medical gas permit holder allegedly stored patient labeled prescription medications (other than oxygen) on premises, failed to properly secure oxygen tanks on delivery vans, and exposed oxygen tanks to areas where smoking and open flames were present. The Board office received a written complaint stating that bungee cords were being used to secure oxygen tanks, smoking and candles were permitted on the premises, and the location was being used as a “drop off station” for other patient labeled prescriptions. Alleged violations of law: KRS 217.065(1), KRS 217.055(1)(B), KRS 315.121 (1)(a)(g) and 21 CFR 211.150. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0022B. Pharmacist consultant for a special limited medical gas permit holder allegedly stored patient labeled prescription medications (other than oxygen) on premises, failed to properly secure oxygen tanks on delivery vans, and exposed oxygen tanks to areas where smoking and open flames were present. The Board office received a written complaint stating that bungee cords were being used to secure oxygen tanks, smoking and candles were permitted on the premises, and the location was being used as a “drop off station” for other patient labeled prescriptions. Alleged violations of law: KRS 217.065(1), KRS 217.055(1)(B), KRS 315.121 (1)(a)(g) and 21 CFR 211.150. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0023. Pharmacist allegedly forged controlled substances prescriptions. Pharmacist allegedly used his wife’s security prescription blanks, forging her signature, to write Schedule V cough syrup prescriptions for their children as well Lorcet Plus, Lomotil, and Codiclear DH for himself. Alleged violations of law: KRS 218A.282, KRS 218A.284, and 218A.286. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0024. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist did not self report on pharmacist’s renewal application, however, she later telephoned the Board office and stated that she could only locate 0.8 units of continuing education for 2003. Alleged violation of law: KRS 315.065 (2), 201 KAR 2:015, and KRS 315.121(1)(e). CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0025. Pharmacy permit holder allegedly closed and failed to properly notify the Board office. Pharmacy closed on January 5, 2004, and has not yet notified the Board Office. Alleged violation of law: 201 KAR 2:106. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0026. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist’s renewal application that she did not complete

the required continuing education in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

Case No. 04-0027. Pharmacist allegedly failed to complete 1.5 continuing education units in 2003. Pharmacist self reported on pharmacist's renewal application that she completed 0.6 units of continuing education in 2003. Alleged violation of law: KRS 315.065 (2) and 201 KAR 2:015. CRC recommendation for Complaint with attempt to resolve through Agreed Order. Ms. Cooper seconded and the motion passed unanimously.

RECIPROCITY/RELICENSURE/INTERNSHIP: **Melissa Fain.** The Board reviewed Ms. Fain's correspondence regarding an error on the NAPLEX and the possibility of errors on the MPJE. NABP responded to the correspondence.

Melissa Sheppard. The Board reviewed the correspondence from Ms. Sheppard stating that she wanted to reciprocate to Kentucky but had not worked 1500 hours in the previous year, and asking if there was an alternative. After a brief discussion, Mr. Naseman moved for Dr. Osman to provide a written response to Ms. Sheppard that she may take the Kentucky practical examination. Mr. Edwards seconded and the motion passed unanimously. Ms. Thornbury moved for the Board to consider changing the language of 201 KAR 2:030 to read "1000 hours the previous year or experience acceptable to the Board" or similar wording. Ms. Thornbury tabled the motion. Mr. Edwards and Assistant Attorney General and Board Counsel Lalonde-Mooney are to work on a draft to present to the Board at the next Board meeting.

Margaret Robb. The Board reviewed the correspondence from Ms. Robb stating that she wanted to reciprocate to Kentucky but had not worked 1500 hours in the previous year, was there an alternative. After a brief discussion, Mr. Naseman moved for Dr. Osman to provide a written response to Ms. Robb that she may take the Kentucky practical examination. Ms. Thornbury moved for the Board to consider changing the language of 201 KAR 2:030 to read "1000 hours the previous year or experience acceptable to the Board" or similar wording. Ms. Thornbury tabled the motion. Mr. Edwards and Assistant Attorney General and Board Counsel Lalonde-Mooney are to work on a draft to present to the Board at the next Board meeting.

Charles W. Taylor. The Board reviewed Mr. Taylor's Kentucky Board of Pharmacy Candidate Questionnaire submitted in the reciprocity process. Mr. Taylor answered that he had not ever had his pharmacist's license acted against by a state board of pharmacy. The Board office received NABP's written Notification of Disciplinary Action regarding Mr. Taylor. In June 2002, he was allegedly disciplined for failure to obtain continuing education. After a brief discussion, Ms. Thornbury moved to allow Mr. Taylor to continue with the reciprocity process if he sends written documentation concerning his disciplinary action. Dr. Osman and Mr. Armstrong have discretion to handle the situation if Mr. Taylor fails to provide the documentation. Ms. Kindall-Jones seconded and the motion passed unanimously.

Olayemi Adetunji. The Board reviewed Mr. Adetunji's request to submit all paperwork to sit for the June Kentucky Board examinations by the May deadline, but be allowed to continue to

earn internship credit until mid June. After a brief discussion, Ms. Thornbury moved to deny the request, but Mr. Adetunji is to keep the Board informed should the situation change. Ms. Cooper seconded and the motion passed. Mr. Naseman opposed the motion.

CORRESPONDENCE: Louisville Metropolitan Department of Corrections/Edie

Underwood. The Board considered the request to review the procedures for stocking medications at the Louisville Metropolitan Corrections Center. After a brief discussion, Ms. Kindall-Jones moved to allow the Louisville Metropolitan Corrections Center to use the same guidelines as the Fayette County Detention Center. A Kentucky licensed physician must dispense the medications, the medications are properly secured and proper recordkeeping is being maintained. A physician shall be on the premises when the medication room is accessed. Mr. Naseman seconded and the motion passed unanimously.

Lanny Adkins. The Board reviewed Mr. Adkins request to change employment to Samaritan Hospital as a Clinical Coordinator in the pharmacy. After a brief discussion, Mr. Edwards moved to approve the request. Ms. Kindall-Jones seconded and the motion passed unanimously.

Kentucky Pharmacists Association/Joel Thornbury. The Board reviewed Mr. Thornbury's request for an opinion regarding the permissibility of a member of the Kentucky Board of Pharmacy serving on a Kentucky Pharmacists Association committee in a non-chair or non-vice chair capacity. After a brief discussion, Mr. Edwards moved that there is nothing legally restricting the Board members from serving in this capacity. Mr. Naseman seconded and the motion passed. Ms. Thornbury recused.

Christopher Past. The Board reviewed Mr. Past's request for revising the changes he was invoiced following an inspection required by an Agreed Order. After a brief discussion, Ms. Thornbury moved to revise the invoice so that travel time, travel mileage, and lodging are shared between two pharmacists in the same area who were inspected in the same time period per Agreed Orders. Ms. Kindall-Jones seconded and the motion passed. Mr. Naseman recused.

Michael Whitaker. The Board reviewed Mr. Whitaker's request for revising the changes he was invoiced following an inspection required by an Agreed Order. After a brief discussion, Ms. Thornbury moved to revise the invoice so that travel time, travel mileage, and lodging are shared between two pharmacists in the same area who were inspected in the same time period per Agreed Orders. Ms. Kindall-Jones seconded and the motion passed. Mr. Naseman recused.

Staffing Solutions, Inc./Joseph Saylor III. The Board reviewed Mr. Saylor's request to amend the original standard for the condo pharmacies that one pharmacist may be pharmacist-in-charge of five condo pharmacies. After a brief discussion, Ms. Cooper moved to allow Staffing Solutions, Inc., to have one pharmacist serve as pharmacist-in-charge of ten condo pharmacies, with Staffing Solutions, Inc., informing the Board of any significant changes in business so that the situation may be reevaluated. Ms. Kindall-Jones seconded and the motion passed unanimously.

Three Forks Apothecary/Scarlett Litteral. The Board reviewed the correspondence from Ms. Litteral requesting the Board's opinion of her pharmacy "repacking" medications dispensed by a

mail order pharmacy in unit dose containers to be sent to a long term care facility. After a brief discussion, Ms. Thornbury moved to inform Ms. Litteral that Three Forks Apothecary can not redispense a prescription previously dispensed by a mail order pharmacy. Mr. Naseman seconded and the motion passed unanimously.

Cumberland Drug Co./Rodney Stacey. The Board reviewed the correspondence from Mr. Stacey regarding the difficulty of having to wait 30 days before opening a pharmacy to receive the Kentucky pharmacy permit. Mr. Stacey asked the Board to consider changing this policy. After a brief discussion, Mr. Naseman moved to change the Board's policy not to issue a Kentucky pharmacy permit no greater than 30 days before opening to a policy to issue the permit on request and after an inspection. Ms. Cooper seconded and the motion passed unanimously.

Michael J. Kellihan. The Board reviewed Mr. Kellihan's request for information to start the reinstatement of his Kentucky pharmacist's license. After a brief discussion, Ms. Thornbury moved for Dr. Osman to respond to Mr. Kellihan with the procedure for reinstatement. Ms. Cooper seconded and the motion passed unanimously.

Kroger/Thomas Prose. The Board reviewed the correspondence from Kroger pharmacies regarding multiple questions concerning central fill and central refill pharmacies in Kentucky and Ohio. After a brief discussion, Ms. Kindall-Jones moved to direct Dr. Osman and Assistant Attorney General and Board Counsel Lalonde-Mooney to respond that it is in Kroger's best interest to consult with Kroger's own corporate attorney on these matters. Ms. Cooper seconded and the motion passed unanimously.

Don Thomason. The Board reviewed Mr. Thomason's request to have his record expunged. After a brief discussion, Ms. Thornbury moved to expunge Mr. Thomason's record by segregating and sealing the record. Mr. Edwards seconded and the motion passed unanimously.

John Powless. The Board reviewed Mr. Powless's request to have his record expunged. After a brief discussion, Ms. Thornbury moved to expunge Mr. Powless's record by segregating and sealing the record. Mr. Edwards seconded and the motion passed unanimously.

Don Spoonamore. The Board reviewed a prescription from the 1880's submitted by Mr. Spoonamore. Mr. Spoonamore requested the Board's permission to sell old prescriptions on the open market. After a brief discussion, Mr. Edwards moved to deny permission from the Board to sell the prescriptions, but advised Mr. Spoonamore to consult with his own attorney. Ms. Thornbury seconded and the motion passed unanimously.

Nation's Medicines/Steven Sheldon. The Board reviewed Mr. Sheldon's request for advise on handling an employee with an admitted drug addiction. After a brief discussion, Ms. Kindall-Jones moved to advised Mr. Sheldon to seek the advise of his own counsel regarding the situation. Ms. Cooper seconded and the motion passed unanimously.

James Stephens. The Board reviewed Mr. Stephens's correspondence regarding the effect a conviction of a nondrug misdemeanor would have on his Kentucky pharmacist's license. After a brief discussion, Mr. Naseman moved to refer Mr. Stephens to KRS 315.121. Ms. Kindall-Jones

seconded and the motion passed unanimously.

NABP: **Delegate's Certificate for NABP's 100th Annual Meeting.** Ms. Kindall-Jones moved that President Armstrong serve as Kentucky's delegate to the meeting and President-elect Edwards serve as alternate delegate.

Dr. Osman informed the Board that out of state travel had not yet been approved for the NABP 100th Annual Meeting. The travel requests were sent to the Office of the Comptroller on January 16, 2004.

A solicitation for votes letter from Richard Palombo and a solicitation for votes letter from Howard Anderson were included in the packet for informational purposes.

LEGISLATION/REGULATIONS:**Senator Stine.** Dr. Osman read a letter from Senator Stine requesting the Board of Pharmacy to clarify the term *biologics*. A response was sent to Senator Stine.

Dr. Bouvette gave an update on the actions taken and actions pending in the Kentucky General Assembly. He gave much credit to Senator Dick Roeding, The Only Pharmacist in the Legislature, and the work he has done to support the profession of pharmacy.

CONTINUING EDUCATION: **Program Approval.** Mr. Edwards moved to accept the continuing education programs 04-05 through 04-08 as recommended. Ms. Kindall-Jones seconded and the motion passed unanimously.

NEW BUSINESS: Mr. Edward's moved for President Armstrong to sign a letter seeking to reassign Dr. Osman's position to Interim Executive Director with a 17% retroactive raise in salary.

Ms. Kindall-Jones moved to allow Assistant Attorney General and Board Counsel Lalonde-Mooney to present monthly law continuing education programs for the Kentucky Pharmacists Association and do the necessary research on medication errors for the presentation. Assistant Attorney General and Board Counsel Lalonde-Mooney will categorize and separate the cases which will allow her to track the cases to make sure the matters are fully resolved and it will be useful data for the Board of Pharmacy to have. After discussion, Ms. Thornbury seconded and the motion passed unanimously.

ADJOURNMENT: On motion by Mr. Edwards, seconded by Ms. Kindall-Jones and passed unanimously, President Armstrong adjourned the meeting at 5:20 p.m.
The next Board meeting is scheduled to begin at 9:00 a.m. on May 5, 2004, at the Board Office in Frankfort.

